

REMARKS

Assignee gratefully acknowledges the interview summary transmitted June 15, 2006 withdrawing the finality of the Office action dated January 17, 2006. Accordingly, Assignee is responding to the Office action, dated January 17, 2006, as a non-final action. The above-referenced patent application has been reviewed in light of the Office action, dated January 17, 2006. Claims 1-12, 14-36, and 38-60 are currently pending. Claims 1-12, 14-36, and 38-60 stand rejected under 35 USC § 103 over US Patents 5,829,825 or 6,185,306, both of Mange et al., (hereinafter Manges) in view of US Patent 6,373,831 of Secord et al. (hereinafter Secord), US Patent 6,347,355 of Patel (herinafter Patel), or US Patent No. 5,819,160 of Foladare et al. (hereinafter Foladare). Claims 1, 2, 7-11, 15, 16, 18, 19, 21, 25, 26, 30-34, 36, 39, 42-44, 50, 51, 53-54, 59, and 60 have been amended. These amendments are intended to clarify, and in some instances, may even broaden Assignee's claimed subject matter. Therefore, Assignee respectfully asserts that no prosecution history estoppel should result from these amendments because they do not narrow the scope of Assignee's claimed subject matter. Assignee respectfully asserts that support for these amendments is found throughout the specification, such as at page 14, line 20 – page 15, line 1, to name but one example. Assignee respectfully asserts that no new matter has been presented. Reconsideration of the above-referenced patent application in view of the foregoing amendments and following remarks is respectfully requested.

With regard to the Examiner's rejection under 35 USC § 103, it is respectfully asserted that this rejection has been traversed. Specifically, none of the references, alone or in combination teach "receiving a plurality of second file portions of the media file with the electronic device from a second computing device via a second communication channel as a result of commands initiated from the media client, wherein the plurality of second file portions are unusable as a media file; and creating with the media client the media file in the electronic device from the first file portion and at least one of the plurality of second file portions" as recited in Assignee's amended claim 1. The remaining claims all patentably distinguish from the cited documents on at least the same and/or a

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similar basis as claim 1. Therefore, it is respectfully requested that the Examiner withdraw this rejection and allow the pending claims to proceed to issuance.

With regard to the rejections under 35 USC § 112, Assignee respectfully traverses this rejection. Assignee would like to direct the Examiner to page 14, lines 16 to 25, which Assignee respectfully asserts provides ample support for the rejected language. Specifically, the cited portion of the specification states, "When a user of the portable computing device 107 engages the media client's functionality, the media client 117 accesses any RM files 125 stored in its memory 129 to determine the set of corresponding EM files 127 corresponding to the RM files 125. When the user initiates media services, the media client 117 on the portable computing device 107 initiates a wireless communication 115 through a transceiver 121 with a transceiver 113 associated with the media server 103. The media client 117 may request all or some of the EM files 127 corresponding to the RM files 125 previously downloaded." Assignee respectfully asserts that one of ordinary skill in the art would understand that the cited passage provides ample teaching for the claim language in question. Specifically, one of ordinary skill in the art would understand the above language to provide support for a media client wherein "the media client initiates commands resulting in said receiving of the second file portion without reference to the content of the first file portion to identify the second computing device," as recited in Assignee's claim 1. Accordingly, Assignee respectfully requests that this rejection be withdrawn.

For at least the reasons above, Assignee respectfully submits that claims 1-12, 14-36, and 38-60 are allowable and requests that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, the foregoing is believed sufficient to address the Examiner's rejections. Likewise, failure of the Assignee to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Assignee does not agree.

To: Examiner Christina Owen Sherr

From: Ilka Dalton for Howard Skaist

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CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500. Consideration of this patent application and early allowance of all the claims is respectfully requested.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130.

Respectfully submitted,

Dated: 6/19/06


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I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office on:

June 19, 2006
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Ilka Dalton
Name of Person Transmitting Correspondence


Signature